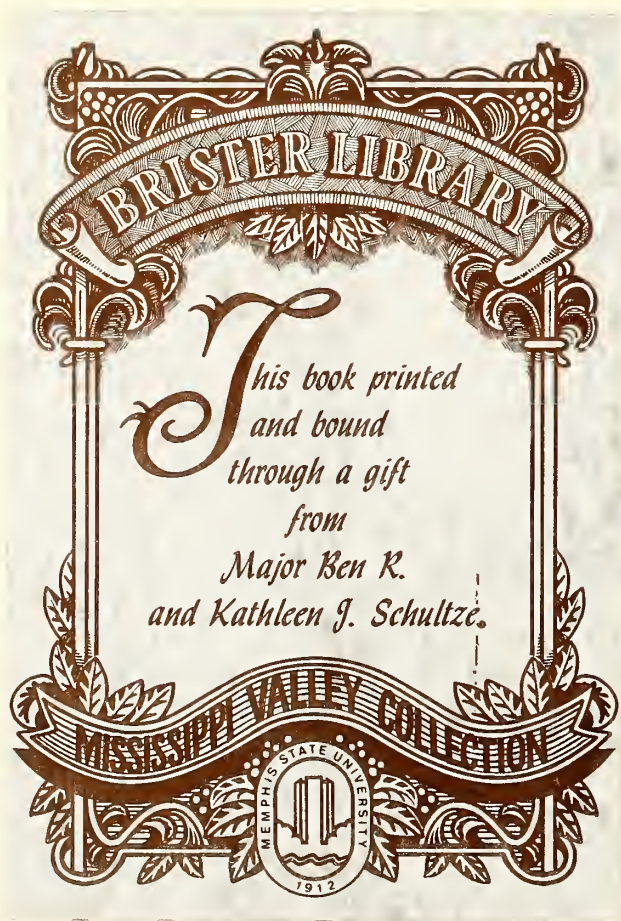


ORAL HISTORY OF THE TENNESSEE VALLEY AUTHORITY
INTERVIEW WITH
WILLIAM C. FITTS, JR.

BY - CHARLES W. CRAWFORD
ORAL HISTORY RESEARCH OFFICE
MEMPHIS STATE UNIVERSITY



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ORAL HISTORY OF THE TENNESSEE VALLEY AUTHORITY

INTERVIEW WITH WILLIAM C. FITTS, JR.

AUGUST 1, 1969

BY CHARLES W. CRAWFORD

ORAL HISTORY RESEARCH OFFICE

MEMPHIS STATE UNIVERSITY



MEMPHIS STATE UNIVERSITY
ORAL HISTORY RESEARCH OFFICE

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PLACE

New York, N.Y.

DATE

Aug 4, 1967

William C. Fitts, Jr.
(Interviewee) William C. Fitts, Jr.

Charles W. Crawford
(For the Mississippi Valley Archives
of the John Willard Brister Library
of Memphis State University)

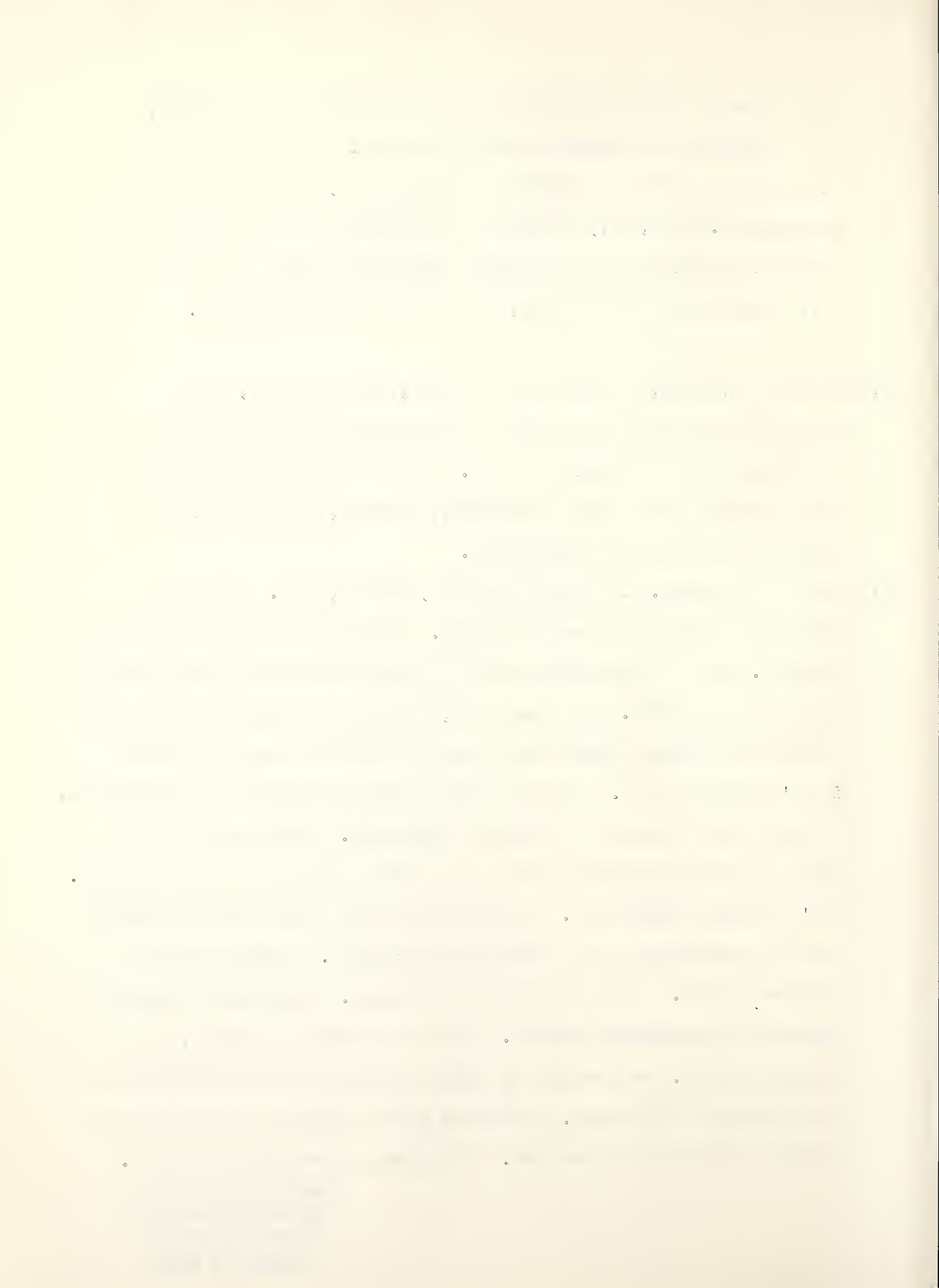


THIS IS MEMPHIS STATE UNIVERSITY ORAL HISTORY RESEARCH OFFICE PROJECT,
AN ORAL HISTORY OF THE TENNESSEE VALLEY AUTHORITY. THE INTERVIEWER IS
DR. CHARLES W. CRAWFORD OF MEMPHIS STATE UNIVERSITY, INTERVIEWING
MR. WILLIAM C. FITTS, JR., FORMERLY OF THE TENNESSEE VALLEY AUTHORITY
AND NOW VICE PRESIDENT OF THE COLUMBIA BROADCASTING SYSTEM IN NEW YORK
CITY. THE PLACE IS NEW YORK CITY, AND THE DATE IS AUGUST 1, 1969.

DR. CRAWFORD: Mr. Fitts, I suggest that we start, if you care to, with a
summary of your background and early life leading up to your employment with
the Tennessee Valley Authority in 1934. I believe that of interest would be
things concerning your family background, education, and your early legal
experiences before the TVA appointment.

MR. FITTS: All right. I was born in Mobile, Alabama, 1905. I lived in
Mobile for the first six years of my life. My father was a practicing lawyer
in Mobile. When I was nine years old, he moved to Birmingham where he con-
tinued to practice law. For a few years, until about 1915, (I believe 1916)
he moved to Washington where he was Assistant Attorney General in Woodrow
Wilson's administration. I went to public school in Birmingham and Washington.
The family later moved to New York City about 1919. I then went to high
school at the Collegiate School for Boys on West 77th Street in New York City.
That's a private high school. I graduated from that high school in 1923, and
I took my undergraduate work at Princeton University. I graduated from
Princeton in 1927. I then went to Yale Law School. I then went through what
they called an accelerated program. I went both winter and summer, and I
graduated in 1929. At that time my father had moved back to Birmingham and
had established a law office. I returned from law school to Birmingham and
practiced law with him in the firm. At one point it was Fitts and Fitts.

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MR. FITTS: At another point it was Fitts, Boyle, and Fitts, in general practice, (Cont'd.) (litigation, primarily) but in general practice. I practiced law there for five years--from 1929-1934. In 1934 I accepted a position in the legal division at the TVA and moved to Knoxville. At the time that I went to the TVA, the staffing was really just beginning. The legal division was headed by James Lawrence Fly, who was General Counsel. The Board of Directors was, at that point, composed of Arthur E. Morgan, Harcourt Morgan, and David E. Lilienthal. The General Manager was John Blandford. The Director of Personnel was Gordon Clapp. At the time I became a part of the legal division; we had only a handful of lawyers and the division was just beginning to be built.

The primary problems at that point in the development, as far as the work of the legal division was concerned, were really three. One was the beginning of the constitutional litigation, challenging the constitutionality of the Act. Second, and I think almost as important, and I think that this has almost been overlooked by a great many people on this subject, was the necessity for obtaining state legislation in the states of Mississippi, Alabama, Tennessee, Georgia, and North Carolina, and later Kentucky, to permit the municipalities and rural cooperatives to build their own electric power distribution systems and to purchase the power from the transmission lines of TVA. Without that state legislation, the basic power program, which was built upon the distribution systems of the municipalities and rural cooperatives, would never have been able to have gotten off the ground, because enabling legislation was needed in each of these states. So, there was a two-fold job here. Part of it was the preparation and drafting of the legislation. But another part of it was the actual job of convincing the political powers in the states--the legislative bodies and the executive--of the necessity of



MR. FITTS: desirability of such legislation. A good deal of this work was
(Cont'd.) done during these early years. The third problem involved federal legis-
lation, because throughout the early period of TVA there was a constant
struggle to prevent legislation from being passed that would limit, cripple,
and in many cases, make absolutely impossible further development. There
was a constant flow of proposed legislation in the Congress that was hostile.
There were a great many occasions where appearances had to be made before
the legislative committee in Congress, making the arguments and advancing
all of the reasons why such legislation should not be adopted. In
addition, there were several periods where affirmative legislation was
needed. The Act required amendments that would enable us to do better
what we were trying to do, and here, also, was a big part of the work that
we found in these early years.

I would say these three areas were the areas of primary concern
to those of us who were lawyers. Now, with respect to litigation itself,
shortly after I arrived the first of the constitutional cases was filed.
That's the case of Ashwander against the Tennessee Valley Authority. This
was the case where the Alabama Power Company, a subsidiary of Commonwealth
and Southern, the subsidiary operating in the State of Alabama, had sold
a small transmission line leading from Wilson Dam out into the North
Alabama area, serving some of the small municipalities in North Alabama.
A dissenting stock holder filed a stockholder's suit. This is where
Ashwander came in. He was challenging the transaction on the grounds that
actually it was an illegal transaction, because the TVA was actually
unconstitutional; therefore, there was no authority either to sell or
to buy such a transmission line under those circumstances.



MR. FITTS:
(Cont'd.)

In this guise the constitutional issue was first raised. This case was originally filed in the state court in North Alabama. It was removed by us to the United States District Court for the northern district of Alabama. It came first on a motion to dismiss the complaint, which is the legal device by which a defendant challenges the sufficiency of the complaint, and says, in effect, that there is no cause for action, and asks that the case be dismissed. A preliminary injunction was sought and issued, but was set aside. The motion to dismiss was denied, and we went to trial before Judge Grubb in Birmingham, who was at that time the presiding judge of the Northern District of Alabama.

In this trial which lasted many weeks, I guess about six, we attempted to present all of the background. We started with the original report of the Army engineers on the Tennessee River of the original proposed development of the River. We proved the history and background of Wilson Dam, the National Defense Act of 1916. We went on from there to prove the improvement of the River that could result from the construction of the TVA projects as proposed. We presented expert testimony from hydraulic engineers and navigation engineers and flood control engineers in great detail, to establish what the projects would do for navigation, what they would do for flood control. We went into the agricultural program, the fertilizer plant at Muscle Shoals, the distribution program, as planned through the Extension Service and the state universities. We put all of the detail facts through experts, many of them leading men in the field. We spread this all on the record. The argument was being made, of course, that the primary purpose of the statute really was not navigation,

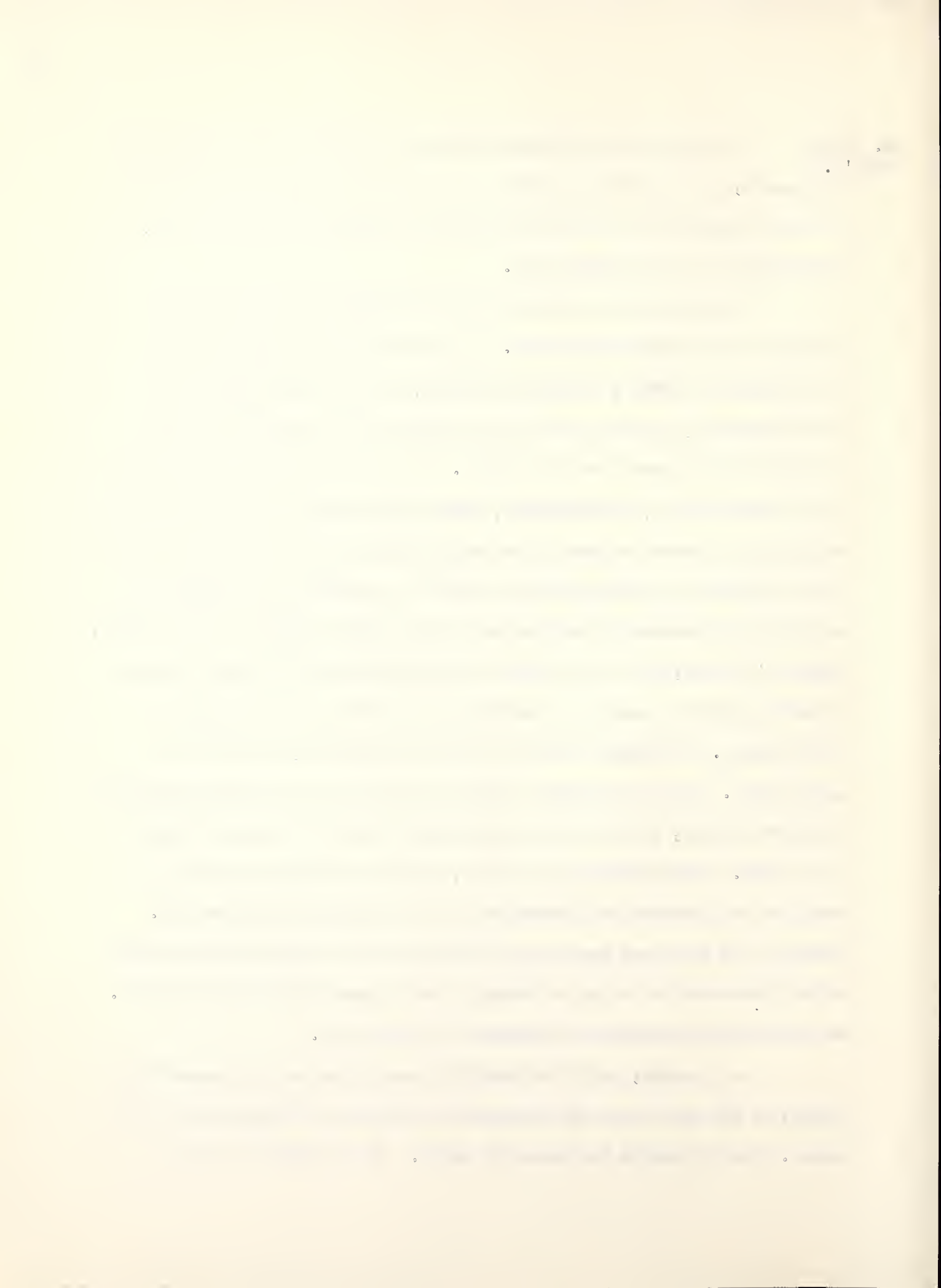


MR. FITTS: and really was not flood control, and really was not agricultural (Cont'd.)

improvement, but the primary purpose was to put the federal government in the power business and in competition with the private power companies, and that this was unconstitutional.

Our argument was that the statute clearly showed on its face that these were multi-purpose dams. The purpose was a multiple purpose of improving navigation, controlling floods, and as a by-product of the dams constructed, for those valid and constitutional purposes, a supply of hydro-electric power came into being. That this power was the property of the United States, and therefore, being the property of the United States, legitimately produced as part of an overall project that was for constitutional purposes, the government had a right to dispose of that power in a way that the government determined was in the public interest and therefore, having that right, it had the right to take the power out to the market. It had the right to acquire a transmission line and to take the power to the market. We argued strenuously here in this case, but we had a narrow issue. The only question before the court was the constitutionality of the Wilson Dam, which had been constructed under the National Defense Act of 1916. Nothing else was involved, because all that was before the Court was the purchase of a transmission line leading from Wilson Dam. Therefore, if the power generated at Wilson Dam was legally generated, the United States had the right to dispose of that power through transmission. We confined the constitutional argument to this point.

As a result, while the District Court ruled the Act unconstitutional, he did give to us the findings of facts that we had proved in the record. This is really the important point. It is essential at the



MR. FITTS: conclusion of this type of litigation to propose findings of
(Cont'd.) facts. Each side brings in proposals of findings of facts. We brought in proposed findings of fact based on the evidence that we had presented, which established the construction of Wilson Dam, the purposes for which it was constructed. The fact that the power that we were talking about was generated at Wilson Dam; the fact that the transmission line was a transmission line from Wilson Dam; all of these findings he had to give us, because we had proven them. He, philosophically, (he was a great judge, by the way) was opposed to the whole concept. His holdings were that it was unconstitutional. This was appealed to the Circuit Court of Appeals for the Fifth Circuit at New Orleans. The case was briefed and argued there. That court over-ruled the District Court and held the transaction as limited--constitutional. This was then appealed to the Supreme Court of the United States. The Supreme Court, in an opinion written by Chief Justice Hughes, held the Wilson Dam to be constitutional, the purchase of the transmission line to be valid and constitutional, and limited (just as we had argued), this holding to the case before it, which was the case of Wilson Dam. and the transmission line from Wilson Dam. They didn't go any further. They didn't go into the question of whether anything else could be challenged. So in conclusion, as far as the Ashwander case is concerned, what it really established was the constitutionality of a particular transaction involved. The constitutionality of the purchase of a transmission line to take power from Wilson Dam to rural cooperatives and municipalities for distribution by their own distribution systems. That's the Ashwander case.



DR. CRAWFORD: What about the value of this record, Mr. Fitts? Apparently, you went to a great deal of trouble to introduce a lot of evidence. Do you consider this a good record of the background and beginning of TVA?

MR. FITTS: I consider it an excellent record. And there is another one that I will get to later, and that is the so-called Eighteen Power Company Case where there is a similar type of record which is a little bit updated, because it came a little bit later.

DR. CRAWFORD: In what court would this record be found now?

MR. FITTS: The record of the Ashwander case should be in the United States District Court for the Northern District of Alabama--Birmingham. Now, the second big challenge on the constitutional question arose in an injunction proceeding filed by eighteen of the power companies, all connected either with Commonwelath and Southern as subsidiaries or Electric Bond and Share as subsidiaries. All of the companies were the companies operating within one or another part of the Tennessee Valley area. They sought in a case originally filed at Nashville, in the Middle District of Tennessee, to enjoin the distribution and sale of power from the dams. They sought to enjoin further sale through transmission lines to municipalities and rural co-ops in the area. Their position taken in this case from the beginning basically, was that while they might concede that the dam projects were constitutional and that the generation of the power at the dam sights was constitutional, the limit should be at the dam site. The power should not be taken out by transmission lines and sold to the distribution systems. The power would have to be sold at the bus bar--at the dam sight, and that was as far as the federal government could go, constitutionally. This, of course, meant that power would have to be sold to the power companies, because



MR. FITTS: nobody else would have the facilities to take it out to the market.
(Cont'd.)

So what they were actually saying was that "It's all right to construct the project. It's all right to generate the power, but you must have us as the customers, and we must be the only customers to purchase at the bus bar, because when you go any further than that, you're engaging in illegal competition with private industry. You are, in effect, taking our business, which is the business of transmission and distribution, and the federal government has no right to be in the transmission business." This was their basic concept from the beginning.

The case had an early history where an injunction was granted by Judge Gore of the Middle District of Tennessee. That injunction was appealed to the United States Circuit in Cincinnati. The injunction was reversed. The case was sent back for further proceedings. At that point a statute was passed in Congress. (And there is no question but that this was done because of this case, by the way.) A statute was passed that provided, in effect, that where the constitutionality of a federal statute is being attacked and an injunction is sought the proceedings must be heard not by a single United States judge, but must be heard by a special statutory three-judge court created by this statute. This three-judge court was to consist of one judge from the Circuit Court of Appeals, and two district judges.

Therefore, upon the passage of this statute this case was transferred (and this is the first case tried under this statute), to a special three-judge court created by the statute. This court consisted of Judge Florence Allen of the Circuit Court of Appeals for the Sixth Circuit,



MR. FITTS: Judge Gore, and Judge John Martin, who was at that time United States District Judge for the Western District of Tennessee--the Memphis (Cont'd.)

States District Judge for the Western District of Tennessee--the Memphis district. The case was tried at Chattanooga before this court. This was, again, about a six weeks' trial at Chattanooga before this court.

We again presented the entire background, the engineering expert testimony. We presented testimony of the flood control effect on the Tennessee and on the Mississippi. We had the leading experts on the Mississippi testifying as to the flood control effect of the Tennessee control on the Mississippi levee system. We had the leading navigation engineers testifying as to navigation on the Tennessee. We presented all of this in great detail, and we made the argument that the entire project was constitutional under the Commerce Clause and under powers of national defense and the general welfare. We again repeated the argument that the incidental power generated was a by-product; that it was property; that it belonged to the people of the United States and could be sold and taken to market in a way that the federal government decided was best in the public interest. Here we had a majority of the court believing in the constitutionality of the statute. We again obtained the findings of fact and we obtained an opinion written by Judge Allen, concurred in by Judge Martin with Gore dissenting, to the effect that the entire project was constitutional.

This was the broad one. This was the one that said the whole thing was constitutional. This case was affirmed on appeal, and this is the case that really established the final constitutionality. I made all of the arguments on evidence. I made all of the arguments on the admissibility of evidence. I made all of the arguments on the finding of fact, both in the Ashwander Case and in the Eighteen Companies Case. That's a stopping point.



I N T E R R U P T I O N

MR. FITTS: Well, let's start with the top management for a minute, because I think that this has a great deal to do with the success of the Authority. I think that it was a great Board of Directors to begin with. I think that you had three quite dissimilar men with different background and different abilities and somewhat different concepts. But I think that the combination in the early days worked extremely well. I think this does partially account for what was accomplished.

In Arthur Morgan you had a man who was unquestionably a brilliant hydraulic engineer, who had the concept--a broad concept--for the development of the reservoir project; who understood the flood control problem; who had had a great deal of experience in flood control engineering. He also was an idealist. He had a quite broad concept of overall economic development and improvement in the Valley.

In David Lilienthal you had a very fine administrator who was good at building a management; who helped unquestionably in building an excellent personnel department and what I thought was a great legal department, and in general, was what we call now a manager. In my opinion, his greatest contribution was in the field of management. I think that he was far and away the best administrator--the best manager of the three.

In Harcourt A. Morgan you had a man whom I think has been greatly under-rated. First, he was a great human being. He had a warm personality and was a fine person. But in addition, he knew the Valley, he knew the area, he knew the people. He knew how to approach them. The thing that might have killed TVA, and at one point came close to hurting it, was a feeling in the Valley itself that we ran into--that here was



MR. FITTS: something being superimposed on them from above. Here was
(Cont'd.) something being brought down from Washington and being superimposed on them. Now, H. A. Morgan insisted from the beginning, strongly supported by Lilinethal, (and this was one of the beginnings of the division) that this project had to be coordinated with the local people. You had to have the cooperation of local government, local legislation, and local officials. The grass-roots concept, that this was being done not by supimposition, but by cooperation and coordinated efforts had to be strongly helped. I think this had a great deal to do with the success, because, as I stated earlier, without the cooperation of the local authorities, we would never have been able to have obtained authorization for the distribution systems, without which the entire power program would have failed, and we would never have been able to get the agricultural program in anything near the shape it reached without the cooperation of the Extension Service and the state universities. In all of this H. A. Morgan was invaluable, and I think that his contribution has never been fully appreciated.

I think that these three different men with this kind of combination that I've been trying to describe, did make a great difference. Now, while I'm on this subject, I guess I might as well touch on the differences that finally developed and what I know of them. I was fairly close to this because I had reached a position at this point where I was acting very largely as an advisor to the Board. Arthur Morgan had certain weaknesses that I think became more and more pronounced. He was a type that I think you see a great deal of in people with extreme views of what they think or regard as right. He could not believe that people could



MR. FITTS: differ with him and still be honest. If you differed with him,
(Cont'd.)

if you reached a point where you couldn't agree and you had to say, "No, I think the other way is the right way to do it," there was something wrong somewhere in his opinion. This is what happened between him and David Lilienthal.

After the Eighteen Power Companies Case was finally settled, after the constitutional litigation was over, Lilienthal took the position that the time had come to cooperate with the power companies-- that the time had to come to build a coordinated power grid system where you inter-connected, where you could exchange, where if you had a shortage in one area you could make it up by bringing excess surplus power from another area within the connecting systems. Arthur Morgan seemed to think that there was something sinister about it, and they began to break on this issue.

Then came the rather incidental matter, really, of the Berry marble claims. In the Valley, as you know, in the building of these reservoirs we had to flood out a great deal of property. Some of the property we flooded had minerals on it--iron, zinc and marble. There was a quite prominent politician in the State of Tennessee. He was Senator at one time. I forget his first name. He owned a substantial amount of marble deposits that were flooded. We had to condemn them. In the condemnation case he made extreme claims as to the value of this marble. There was a lengthy trial of this matter with a great deal of expert testimony as to marble value, etc. Finally there was a settlement. The settlement was partly my responsibility. We thought the settlement was fair. We thought that it was the best that we could do under the circumstances.



MR. FITTS: Arthur Morgan seemed to get some kind of idea that Berry had gone (Cont'd.) to Lilienthal and had put pressure on Lilienthal and that this was a tricky deal. He started making public charges of this kind.

DR. CRAWFORD: Did Mr. Morgan feel that the settlement was too generous?

MR. FITTS: Yes, and he felt that it was the result of improper pressure, and he began to make this kind of statement and this kind of charge. All of this became very embittered by this point and began to get personal. Harcourt Morgan was always on the Lilienthal side in this. Finally the two of them went to President Roosevelt, and they just said, "We can't live with this any longer. Either he goes or we go," is what they really said. The President removed Arthur Morgan, kicking and screaming, by the way.

DR. CRAWFORD: Was this in 1937?

MR. FITTS: It probably was. I tried the case. Morgan sued, challenging the legality of the removal. We tried the case in the United States District Court for the Eastern District of Tennessee before Judge Taylor. We took the position that under the statute the President had the right to remove, for no cause whatsoever, for any reason that he wanted to, and we won it. And we won it in the Sixth Circuit. It was appealed to the Sixth Circuit Court of Appeals.

DR. CRAWFORD: Was that in Cincinnati?

MR. FITTS: Yes, that was in Cincinnati. One other aspect of the work of the legal department that ought to be mentioned, because it was a big part, was the condemnation work. This became a very large program, because you were not only flooding farm land which raised reasonably simple questions with respect to the value of the land; but you were flooding schools, and



MR. FITTS: you were flooding roads, and you were flooding mineral deposits;
(Cont'd.)

and you were taking, in some cases, land that a private owner had been planning to use to build a private power dam himself, and taking it away from him to use for government purposes. These became very complex and complicated questions. The question, for instance, "what did you do to compensate a school district or a county if you flooded out schools?" What we did was to relocate and to rebuild. We were sustained in this. The question of "what did you do when you flooded out roads?" We rebuilt and we reconstructed, and were sustained in this, again, in the Sixth District.

We had a very complicated question, by the way, on cemeteries and graveyards. We had one man in the legal division whose sole job was to relocate these cemeteries. There is a little bit of an interesting side-light on this. He spent most of his time visiting the preachers and going to the church services and going to all-day singings on the grounds and building up relationships where he could get an agreement that this was the way to handle it and this was the way to relocate. But it was handled very delicately, by the way.

I noticed in a very recent book that I've read by this Mrs. Munger, who lives out in my neighborhood, and wrote a small book on TVA, that she makes a point that I think is valid. And that is that the delicacy with which this graveyard business was handled had a great deal to do with overcoming some of the initial feelings of hostility. That instead of just going in and not talking to anyone, arrangement were made in every case with the churches and with the greatest solemnity to remove these graves and to relocate them and to do it in a way that was the most conducive to good feelings. I think this is true, and I think it did



MR. FITTS: have a big effect, but you had all of this kind of complicated (Cont'd.) problem, and a large part of the work of the lawyers during this whole period was this whole condemnations set-up.

The Berry case was sensational, but we had one other very large case from the standpoint of money, and that was the Hiwassee Dam Site case. This was the case that went to the Supreme Court of the United States. I argued this case in the Supreme Court. This was Powelson vs. the United States. Powelson had over the years assembled the dam site itself and a substantial amount of property where we built the Hiwassee Dam. We had to take this away from him on condemnation. He originally got an award of about two million. We reversed it, and we finally settled with him for \$500,000. But it's this type of case, the complex, unusual type of case, that took up a great deal of time in the legal division work.

DR. CRAWFORD: How large a staff did you have, Mr. Fitts?

MR. FITTS: You know, I'm guessing. Let me do my best to guess, because it's going to be a guess. I can't count. While I was there, about twenty. It's much larger now.

DR. CRAWFORD: What part did Mr. Fly play during this time?

MR. FITTS: Well, Larry Fly was General Counsel from 1934-1938 or '39, when I became General Counsel. Under him I was first Assistant General Counsel and Solicitor, and then I became General Counselor when he left. He built the department, and this alone was a great accomplishment, because he started from nothing. He built the department; he hired the people; he selected them and he brought them in. Here again, was a man whose greatest gift was administration. He was a fine manager, and a fine judge

MR. FITTS: of lawyers, in my view. Because I think that the people he
(Cont'd.)
selected turned out to be very, very good. He ran the department. He
was the administrative head of the department. Now, in the act of trial,
I handled most of the heavy work in the trials. He, however, was directing.
He was there. He was making judgement decisions. He made a part of the
argument in the appeals of all of these cases, both in the Circuit Court
of Appeals and in the Supreme Court. But I would say the great contribu-
tion he made was in the building up and the managing and administering
of the department.

DR. CRAWFORD: Can you tell me something about his background, Mr. Fitts, and
how he happened to select you?

MR. FITTS: Yes, I think I can tell you something about that. Larry Fly,
I believe, was a Texan originally. He went to the Naval Academy and
graduated from the Naval Academy and decided that he didn't really like it.
He went to Harvard Law School. He graduated from Harvard Law School. He
came down here to New York City and went with one of the large Wall Street
firms, White and Case. He practiced there for a few years; went into the
Department of Justice in the anti-trust division; was in the trial of the
sugar company anti-trust case. I think that's how he came to the attention
of David Lilienthal.

When TVA was set up they were looking for a man to head the
department. I think it was Lilienthal (I'm sure it was.) who selected
Fly. They brought him to Knoxville, and he started out to build a law
department. At that point it happened that I was at loose ends. My
father had gone to Washington to be General Counsel for the R. F. C. I
was by myself. We were at the bottom of the depression. I started looking

MR. FITTS: for something. Actually, I had accepted a teaching job. I
(Cont'd.)

decided at that point that I might as well think about going into teaching law, and had just about tied up a teaching job when I went to Washington, and my father said, "You know, there's a fellow over here in the Department of Justice. He's getting ready to go to Knoxville, and he's interviewing people. Why don't you go over and talk to him?"

This was Larry Fly. I went over and talked to him. I told him what I was doing. I told him that I was about to make a move. He said, "Go on back to Birmingham and don't make your move for a few days." In a few days I got a wire saying, "Come and bring your library." So I went and I brought my library and then I had to bring my secretary. They didn't even have any books. They didn't have any books; and they didn't have any secretaries. They were just all starting from scratch. They were really starting from scratch.

DR. CRAWFORD: Was that in 1934?

MR. FITTS: Yes. So that's that story.

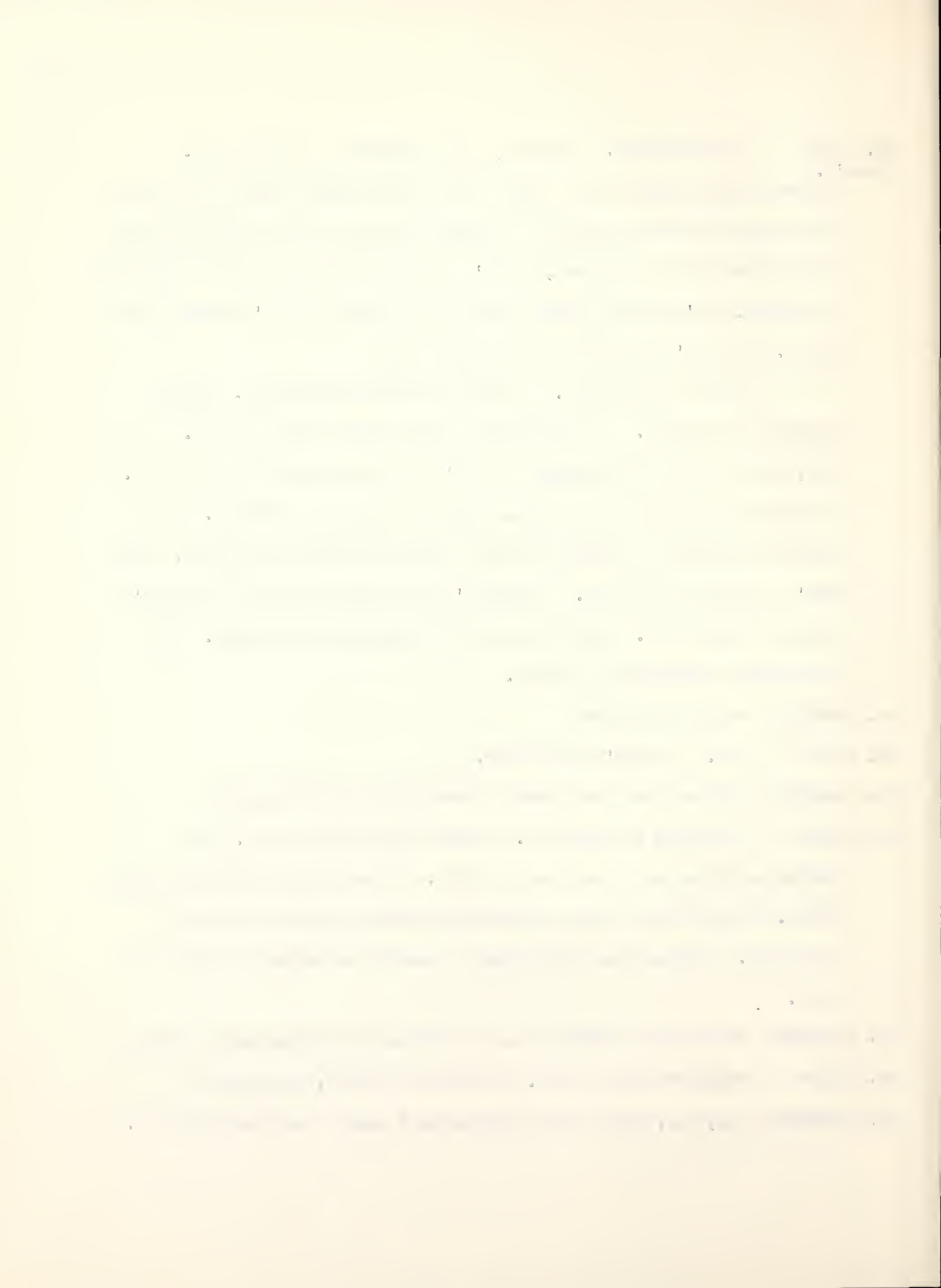
DR. CRAWFORD: Did you start your work in Knoxville or in Washington?

MR. FITTS: I started in Knoxville. I was always in Knoxville. The Washington office was a very small office. It was really an administrative office. It was just a small place where people went when they went to Washington. They had some stenographic service and things of that nature there.

DR. CRAWFORD: Did you work with the lady in charge of the Washington office?

MR. FITTS: Marguerite Owen? Yes. Is she still alive, by the way?

DR. CRAWFORD: Yes, sir, she is still alive, and I hope to see her this year.



MR. FITTS: I think you should. She was doing a great deal of the work there in keeping the necessary political contacts in liaison with the Congressional committees on all of this legislative work, which was very time consuming. The legislative work was very important throughout all of these years. It shouldn't be under-rated. The legislative hearings were terribly important. Then we had that one big investigation.

DR. CRAWFORD: Can you tell us about that?

MR. FITTS: You know, I'm trying to remember what year that was. I'm just not clear on what year it was. Fly was still there, so it must have been after the litigation. It must have been about '38. This agitation about everything that was wrong with TVA built again, by the way. I'm sorry to say, but it was built on Arthur Morgan's recriminations very largely, starting with the Berry case, as I mentioned a minute ago, and built up in Congress where the groups that were basically anti-TVA thought they had something. They pushed through a resolution to appoint a joint investigating committee composed of a certain number of Senators and a certain number of Representatives from the House. They came to Knoxville and conducted hearings--quite lengthy hearings--on every phase of the operation. They went into the Berry case. They went into quite a few other condemnation cases. They went into the administration. They went into the power program. It was really a Dragnet type of investigation. Fly was handling this from the standpoint of organizing this and presenting the material. It finally worked out all right. They finally came out with a report that found nothing--nothing that anybody could really criticize. But it was a real investigation, and it was in many respects a hostile one.



DR. CRAWFORD: How were those committee members selected? Were they selected by the Democratic leadership in both Houses?

MR. FITTS: They were selected, I think, some by the Democratic leadership and some by the Republican leadership, because it was a bi-partisan committee. It had some heavy Republican representation on it.

DR. CRAWFORD: You were dealing, then, with some who were friendly and some not so friendly?

MR. FITTS: That's right. I'd say the majority were friendly, but the strong hostile minority that tried to make the most of what they could find, turned out to be very hostile.

DR. CRAWFORD: Was there a minority report, or did they issue a single report on the hearings?

MR. FITTS: You know, I don't remember.

DR. CRAWFORD: Mr. Fitts, in the early TVA experience, it seems that Mr. Fly was primarily an administrator and you dealt mainly with the arguments. After you became General Counsel, did you make the change to being an administrator yourself, or did you still handle a good deal of the court work?

MR. FITTS: I still handled a good deal of the court work.

DR. CRAWFORD: Was that because you enjoyed it?

MR. FITTS: Because I love it! Yes! And I thought I could do both, really.

DR. CRAWFORD: Did you have a good research staff?

MR. FITTS: Yes. Those young lawyers that we had there were great on the books. They were very good.

DR. CRAWFORD: Did you eventually get the library and the research built up?

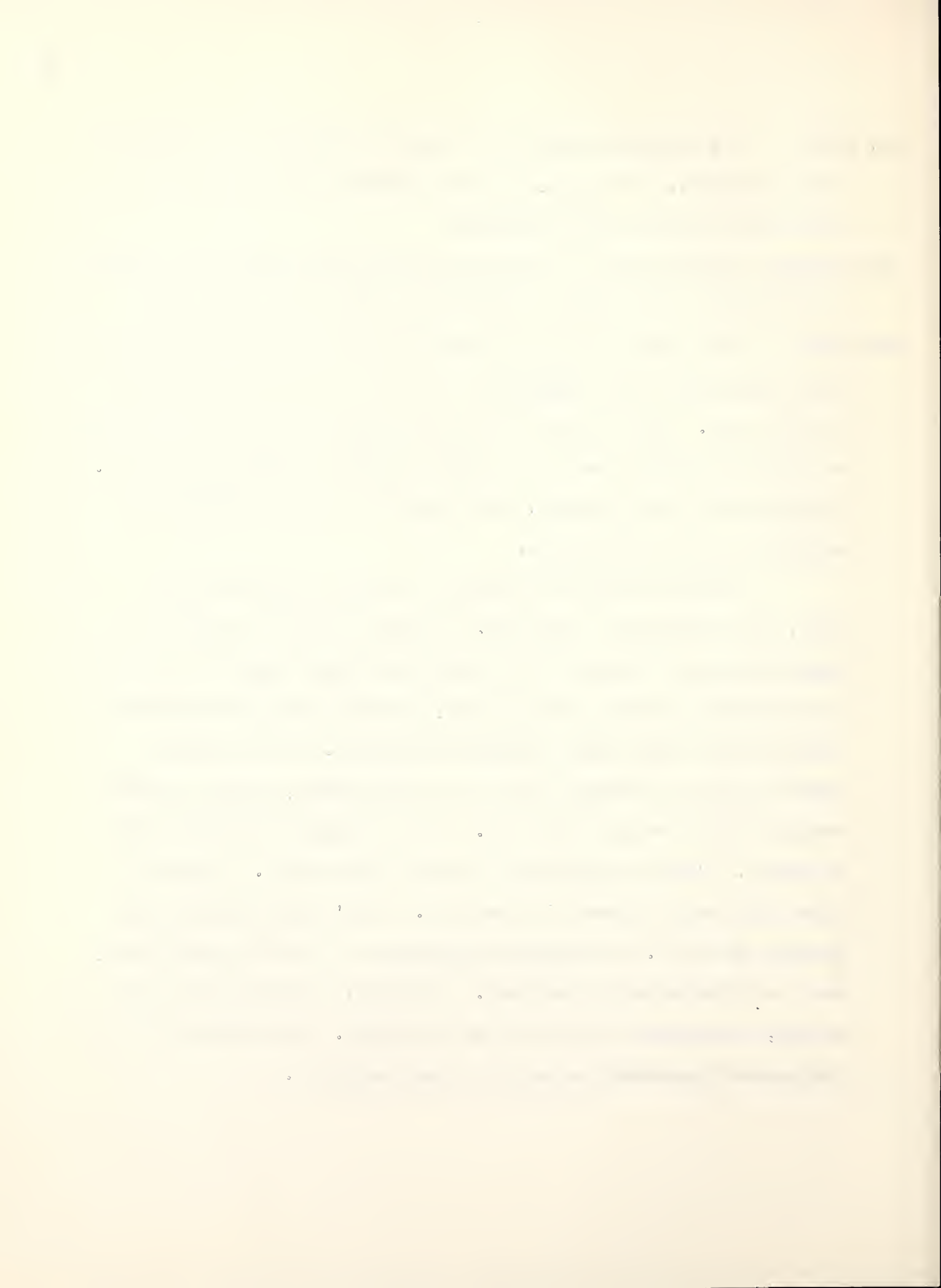


MR. FITTS: Yes, we got the library and we got one of the greatest secretarial staffs I ever saw. This again, was due to the fact that we could pay a little more than most people could pay.

DR. CRAWFORD: Can you comment on some of the reasons why you think the management had the success that it did in the building of TVA in the early period?

MR. FITTS: I think that the very fact that TVA started at the bottom of the depression enabled them to obtain people that they could not have obtained at any other time. They had people there, particularly in the engineering area, who were unquestionably among the greatest engineers anywhere in the world. They were able to get them then. They would have had great difficulty in getting them in any other period.

And they were able to keep them as long as the challenge was there, and I think this is important. Once they got them in there and got them involved, the challenge was so great in the whole period of construction and development that these people stayed, and they stayed much longer than they would have stayed under ordinary circumstances. What was true of engineers was true certainly (maybe to a lesser degree), but was certainly true with respect to all of the rest. It was certainly true with respect to lawyers. I've had a great deal to do with legal staffs. It was the finest legal staff anywhere I've ever seen. I don't think there was any question about that. The personnel department, as I have mentioned before, was a very fine personnel department. Once again, I think you were able to pick, and you were able to pick the best people. Gordon Clapp built up the personnel department and made it a great department.



DR. CRAWFORD: Who do you feel were the most successful administrators underneath the three Directors, in the first days of TVA?

MR. FITTS: Well, of course, you have to remember that I had more direct contact with certain ones than I did with others. I think that Gordon Clapp in personnel and Larry Fly in the law department were the two outstanding administrators.

DR. CRAWFORD: Did the comparative youth of the staff in the beginning not seem to be a handicap?

MR. FITTS: It didn't seem to be a handicap at all. I would add one more man to that list, by the way, and that was the Chief Engineer, Parker. He was a very fine administrator.

DR. CRAWFORD: It seems that the administrative staff had a good deal of imagination. To what do you attribute that?

MR. FITTS: I'm really not sure that I can answer that question. I think you're right and that the imagination was there, but I just think it was that personal quality that you find some places and you don't find in others. I think they were just lucky that they were able to find it.

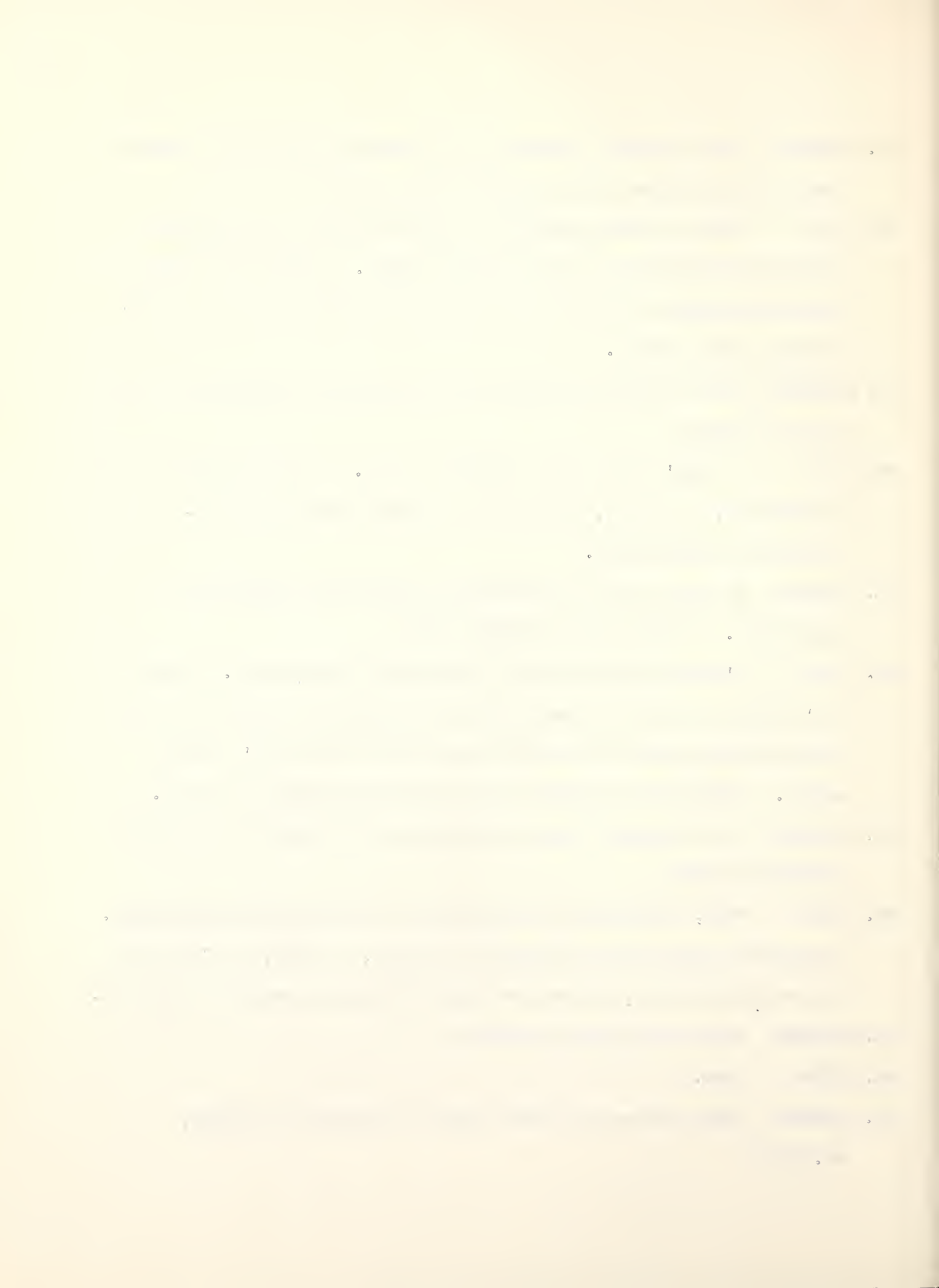
DR. CRAWFORD: Do you suppose it was the challenge of a completely new type of government agency?

MR. FITTS: Well, I think that had something to do with getting good people. I think that people were interested in this job. I think, as I've said, you not only got them, but you were able to keep them, which was important.

DR. CRAWFORD: What year did you leave TVA?

MR. FITTS: 1944.

DR. CRAWFORD: Where did you go and what were your reasons for leaving, Mr. Fitts?



MR. FITTS: I left because, primarily, the challenge was gone. The job was too easy. I felt I could do it with my left hand. I was running a law department, and it was a good law department; but I was just running a department. All of the great problems had disappeared and had been solved.' Furthermore, I had gone as far as I saw I was going to go. I was General Counsel. There wasn't any place left for me to go, and I figured that the time had come for me to find something else.

DR. CRAWFORD: What part did you play? How active were you, and how much did you have to travel in securing this enabling legislation by the Southern states?

MR. FITTS: I was quite active. Fly and I, more or less, divided this job. He did a substantial amount of it, by the way. He did this very well. I went to Kentucky several times. I went there and I talked with Governor Johnson who was then Governor. I had several long discussions with Governor Johnson. I talked to the legislative committees over there. I did a great deal in Tennessee at Nashville with Governor Prentiss Cooper at that time and with the legislative committee. Those were the two places where I did most of the state work. I testified repeatedly before Congressional committees. In the early years at least two or three times a year I was before those committees. I was before the committees on legislation and I was before the appropriations committee.

We had a peculiar problem that took up an awful lot of time in those days in the TVA. We had a problem with the general accounting office. We took the position that our statute fairly clearly said, in effect, that we were not subject to all of the rules and regulations of the general accounting office. We were in a constant turmoil about this.



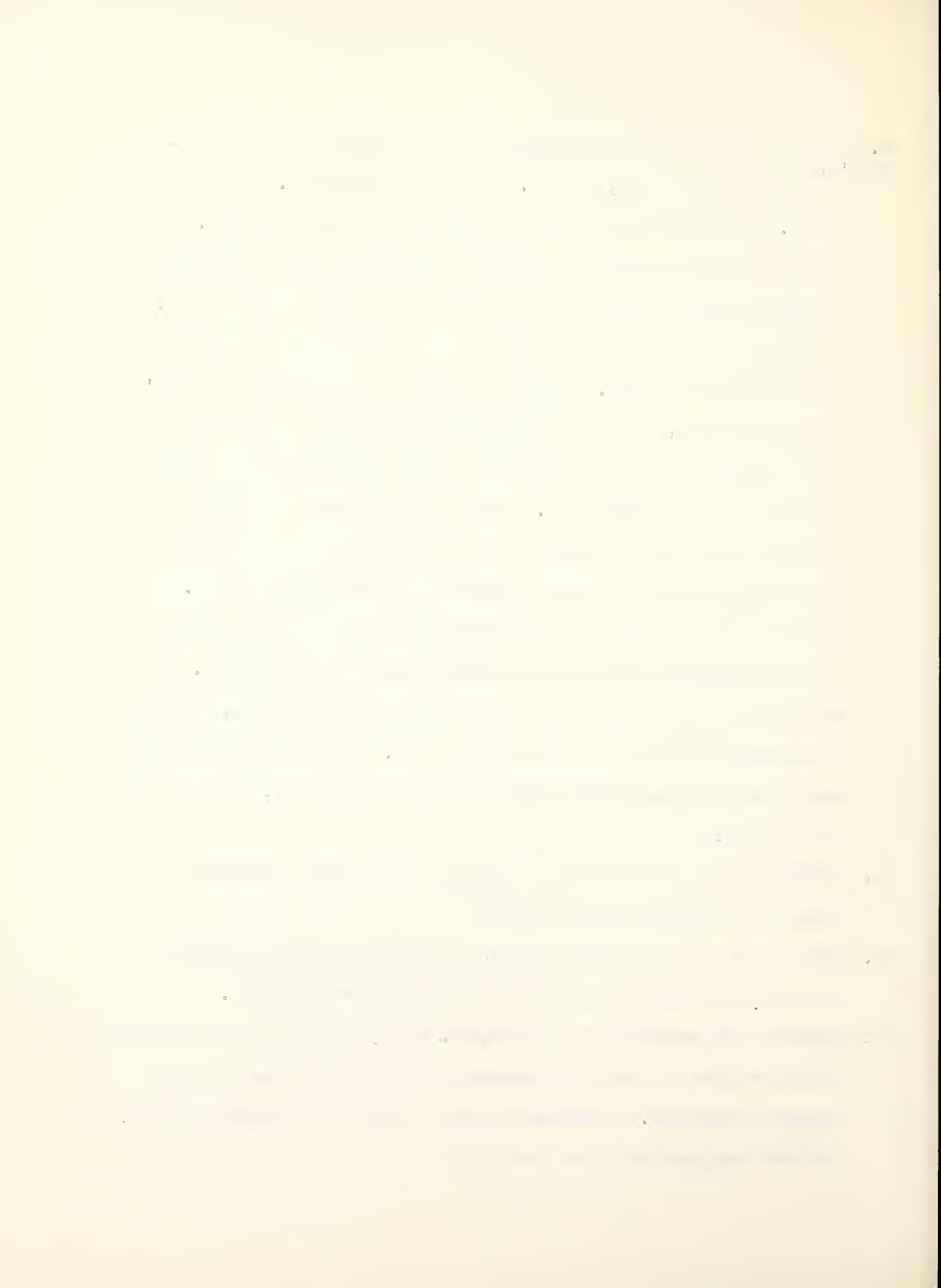
MR. FITTS: You take a simple thing like the settlement of a law suit.
(Cont'd.)

We were subject to suit, you see. We were a corporation. We were not exempt. We were subject to suit, and could be sued for anything. We could be sued for automobile accidents, transmission line electrocution, and everything you could think of, just like any private corporation. We said that since we were subject to suit we had to have the right to settle our own law suits. Nobody could be in a position where he can't settle his own law suits. They were taking the position that it had to be settled through the general accounting office--an impossible situation. This was just one illustration. There were all kinds of settlements of accounts and all kinds of things that we said that as an independent corporation we have to have the authority to handle this business. We were in constant hearings on this question, because they were trying to get legislation that would say we were absolutely accountable. We were trying to make clear that we had to run our own business. This was one problem that took up a great deal of time. And then these amendments that I have mentioned before took up a great deal of time. I did a great deal of this.

DR. CRAWFORD: When and how did you finally get this problem relating to the government accounting office solved?

MR. FITTS: We got it settled our way. We managed to get a clarifying amendment that made it clear that we had been correct on this.

DR. CRAWFORD: You mentioned at one time, Mr. Fitts, that there was a feeling in the Valley that TVA was being superimposed on the local people by the national government. What time was this? Why did that feeling develop, and what were you able to do about it?



MR. FITTS: It developed right away. It was there when I arrived there. It was pretty apparent. It was there in '34 and it was there in '35. I'm pretty sure. But as I said, I think that both Lilienthal and H. A. Morgan understood this problem from the beginning. They worked with the state commissions, the state legislators, the governors, the local communities. They spent a great deal of time in trying to create the atmosphere of "We need your help. We need your cooperation. This thing can only be done as a part of a basic regional movement with local community participants." I think that the very fact that the power program was based on local participation; it was based on rural cooperatives locally managed and locally formed; it was based on municipalities with their own systems that they managed and they ran. This helped to get over this problem.

DR. CRAWFORD: And you feel that H. A. Morgan was particularly valuable?

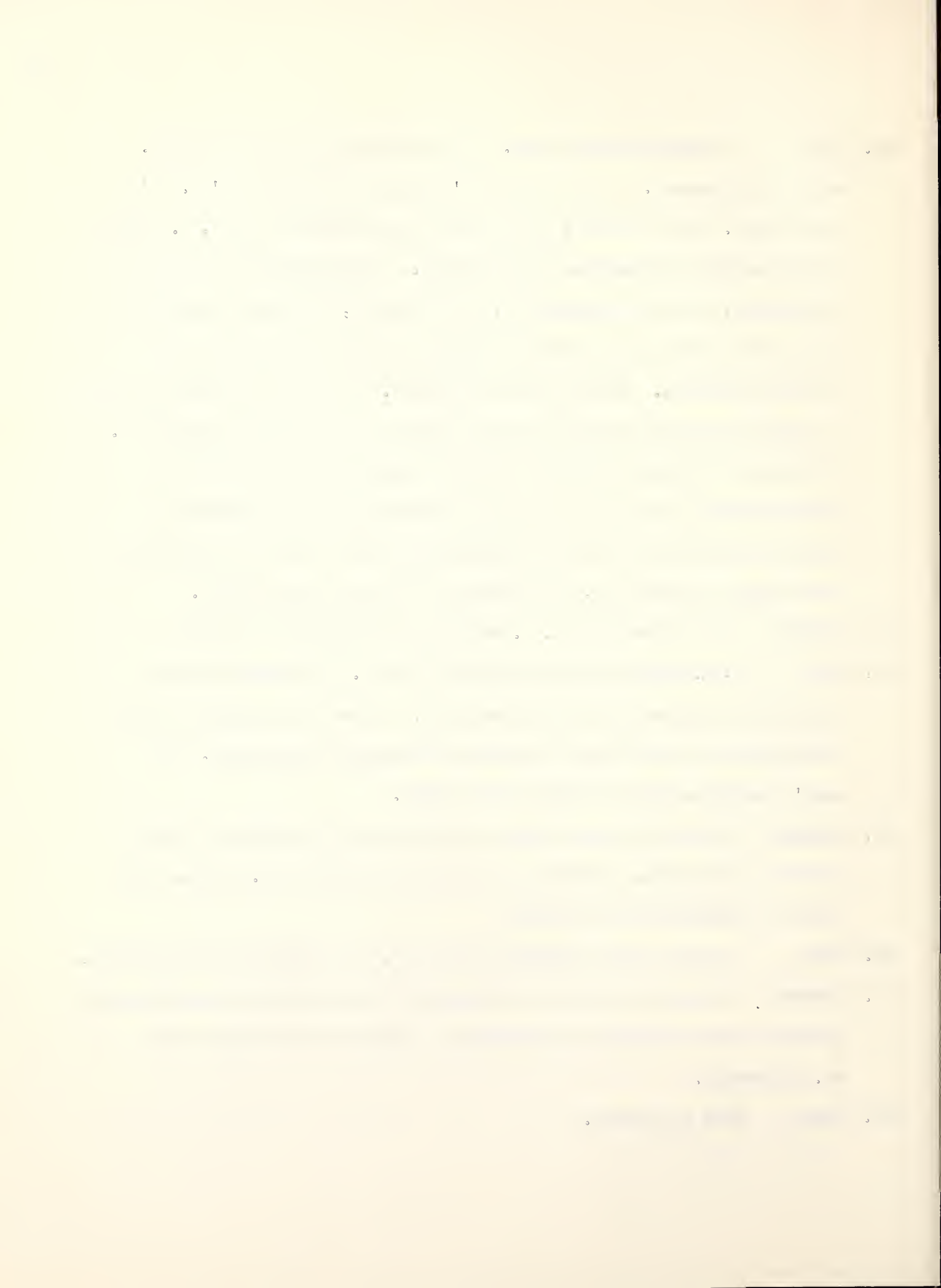
MR. FITTS: H. A. Morgan was very valuable in this. And then his whole agricultural program was run this way, too. It was run by going to local institutions and the farmers themselves and getting cooperation. It wasn't something that he handed down to them.

DR. CRAWFORD: TVA seems to have devoted a great deal of attention to public relations and working smoothly with the people in the area. Do you feel this was justified by the results?

MR. FITTS: I think it was absolutely necessary, and I think it was justified.

DR. CRAWFORD: I believe in the early development of the TVA, the three Directors made some sort of division of authorities between the two Morgans and Mr. Lilienthal.

MR. FITTS: That is correct.



DR. CRAWFORD: Do you believe that was a good administrative policy?

MR. FITTS: Well, I think it was probably necessary at the time. The division was a natural division. The construction program, the hydraulic program, the whole concept of the dams themselves, were primarily A. E. Morgan's field. He knew it. He knew where the people were. He knew the the problems. This is what his primary responsibility was. I think it worked, and I naturally judge things by the results. I think it was probably necessary at that time.

DR. CRAWFORD: At the beginning, TVA did not have a General Manager. How did the need for a General Manager develop?

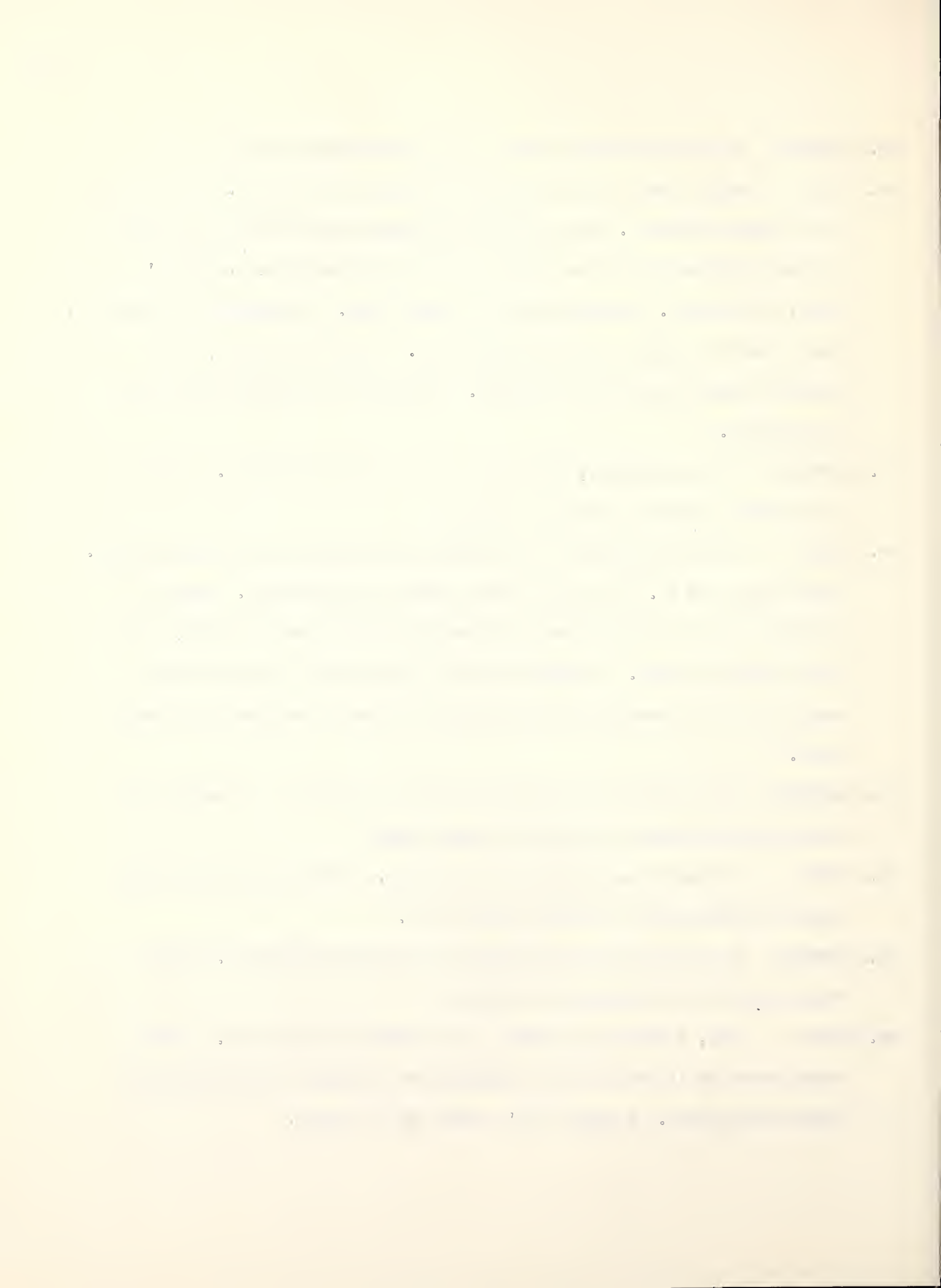
MR. FITTS: I think that grew as any growing organization has this experience. I think they had it. They had a large number of departments. They had a situation with each department responsible directly to the Board, which is bad administration. I think they just recognized as they grew that they had to have somebody standing between the Board and these department heads.

DR. CRAWFORD: Do you believe this would have been necessary or valuable even if the three Directors had worked together well?

MR. FITTS: I think it would have been necessary. I think it was the right type of administration for that organization.

DR. CRAWFORD: At what point do you believe the division between Mr. Arthur Morgan and the other Directors started?

MR. FITTS: Well, I can tell you when I first became aware of it. I first became aware of it when we were preparing the testimony for the Eighteen Power Company Case. I think that's about when it began.



DR. CRAWFORD: Do you feel that it developed more from personality differences or more from fundamentally different view on policies?

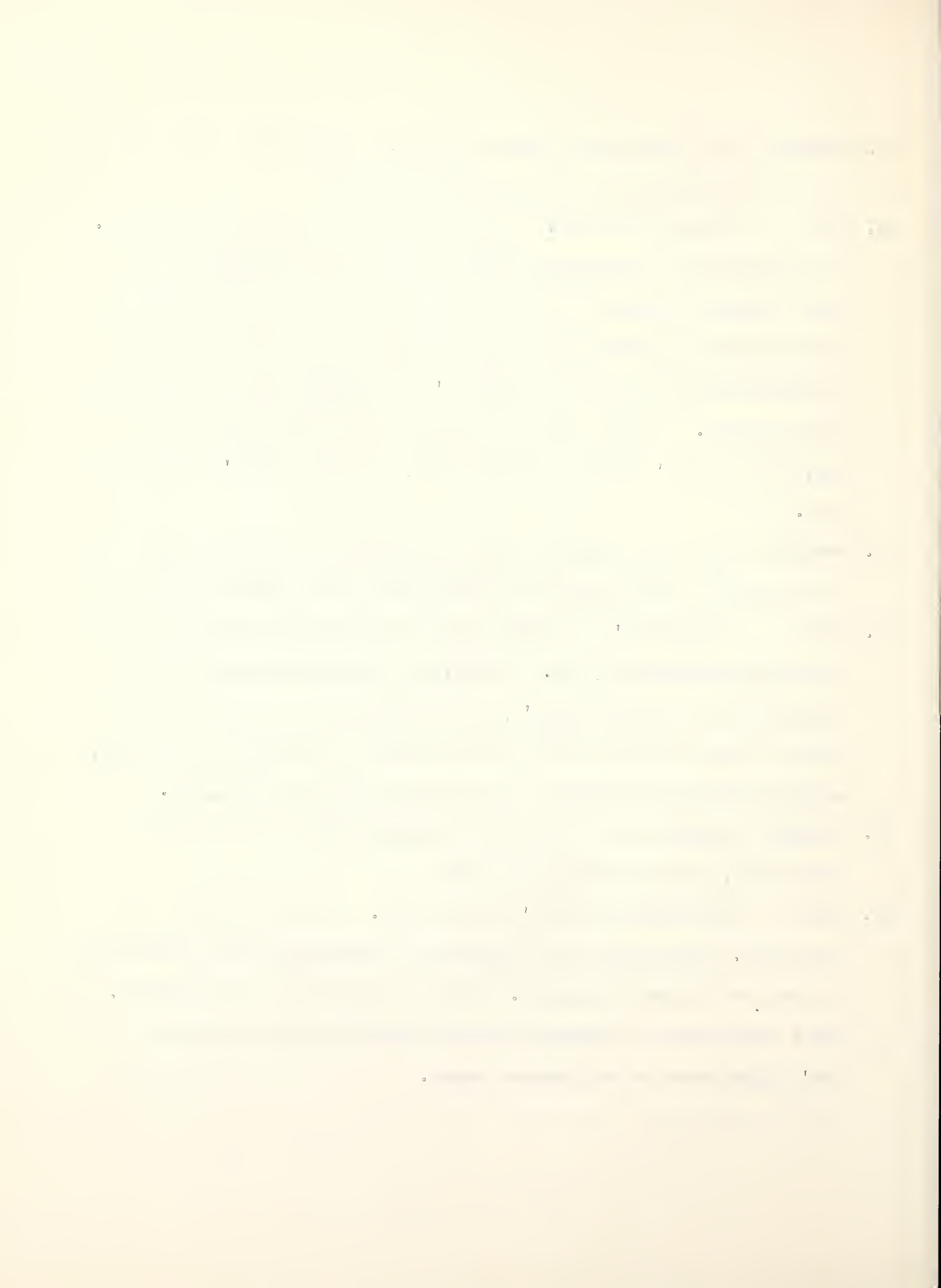
MR. FITTS: I think it was both. I think there was a fundamental difference. I think there was a fundamental difference between David Lilienthal and Arthur Morgan on the power program, and I think there was a fundamental difference between both Harcourt Morgan and David Lilienthal on one hand and Arthur Morgan on the other on what I've been talking about as the "grass roots approach." I think Arthur Morgan was much more inclined to just say, "This is what's right for these people, and this is what's going to be done."

DR. CRAWFORD: Do you feel this difference of outlook could have been part of the results of the background training of the three different directors?

MR. FITTS: I think that's very likely, but I do think that there were strong personality difficulties, too. I think, as I mentioned before, that this suspiciousness of Arthur Morgan's, this feeling that he was right and had to be right and that anybody who was opposed to him was not only wrong, but was dishonest; I think this had a great deal to do with it, too.

DR. CRAWFORD: How much do you believe this division damaged the TVA in its development, or do you feel that it did?

MR. FITTS: In the long run I don't think it did. I think it created a very bad period. That period of the Congressional investigation where everything was more or less under suspicion. This is not good for any organization. But I think there was a complete recovery from this, and therefore, I don't think there was any long-run damage.



DR. CRAWFORD: What state political leaders, out of the ones that you worked with in the various states, did you feel were the most useful supporters of TVA?

MR. FITTS: Are you talking now about state, or are you talking about the Congress?

DR. CRAWFORD: State officials.

MR. FITTS: State. Well, I think in the two states that I worked with, Governor Prentiss Cooper was very cooperative and very helpful, and Governor Louis Johnson of Kentucky were the two that I had contact with, and they were both very cooperative. There are certainly others, but I just won't get any deeper than that.

DR. CRAWFORD: Out of the members of Congress, Mr. Fitts, which did you consider most important in their support of TVA?

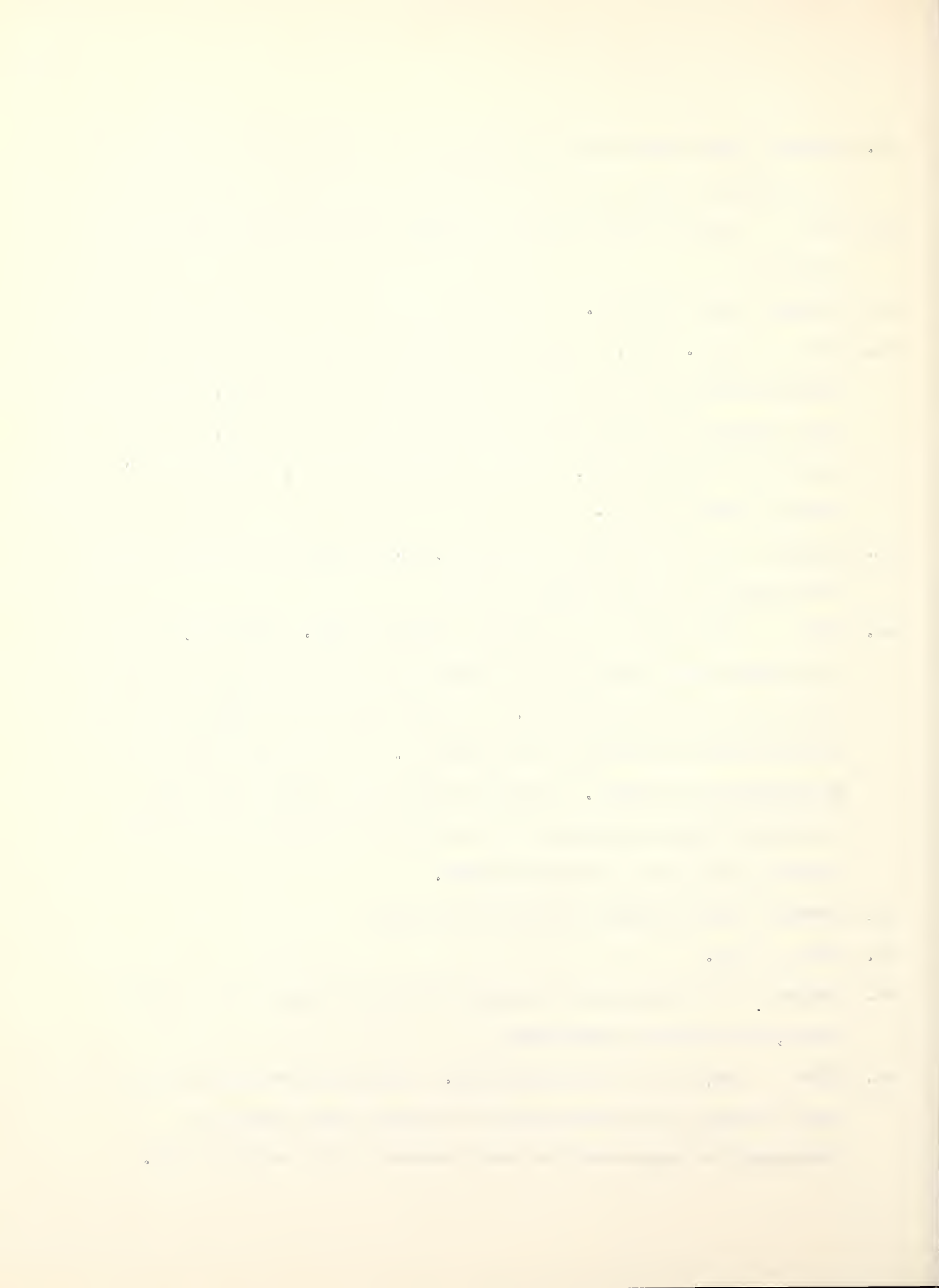
MR. FITTS: Well, here you have several, unquestionably. Of course, you start with Senator Norris--Senator George Norris--of Nebraska, the Father of the Act in more ways than one. You have Senator Lister Hill, unquestionably one of the most helpful men in Congress. You have John Rankin from Mississippi--very helpful. I would say that of the people that we had to deal with that Lister Hill in the Senate and John Rankin in the House were the most active all the way through.

DR. CRAWFORD: Did you depend on them for leadership?

MR. FITTS: Yes.

DR. CRAWFORD: Of the people that you dealt with in your legal cases as adversaries, whom did you respect most?

MR. FITTS: Now, this is a close question. I think the best lawyer that we camp up against in the Constitutional cases was Forney Johnson of Birmingham, who represented the power companies in the Ashwander Case.



MR. FITTS: Now, in the Eighteen Power Company Case they had a battery of (Cont'd.) lawyers. They had as their principal trial attorney the Newton D. Baker firm from Cleveland. Baker himself did not appear. They had a man named Jackson who had a great reputation in these power cases, and they had a younger man named Bemis. Jackson was a good lawyer. Bemis was a good trial man, too. I think that Johnson was the ablest trial man I've seen. I'm speaking of trial lawyers, now, because that's all I had anything to do with in these cases. As a trial lawyer, I think Forney Johnson was the best.

DR. CRAWFORD: What contact did you have with Wendell Wilkie, and what were your impressions of him?

MR. FITTS: I had very little contact with Wendell Wilkie. I saw him, and that's about all. Lilienthal and Fly had the contact with Wilkie.

DR. CRAWFORD: Do you feel that your relations, and that is the relations with TVA, with the private power companies did develop as you wanted them to by the end of the thirties?

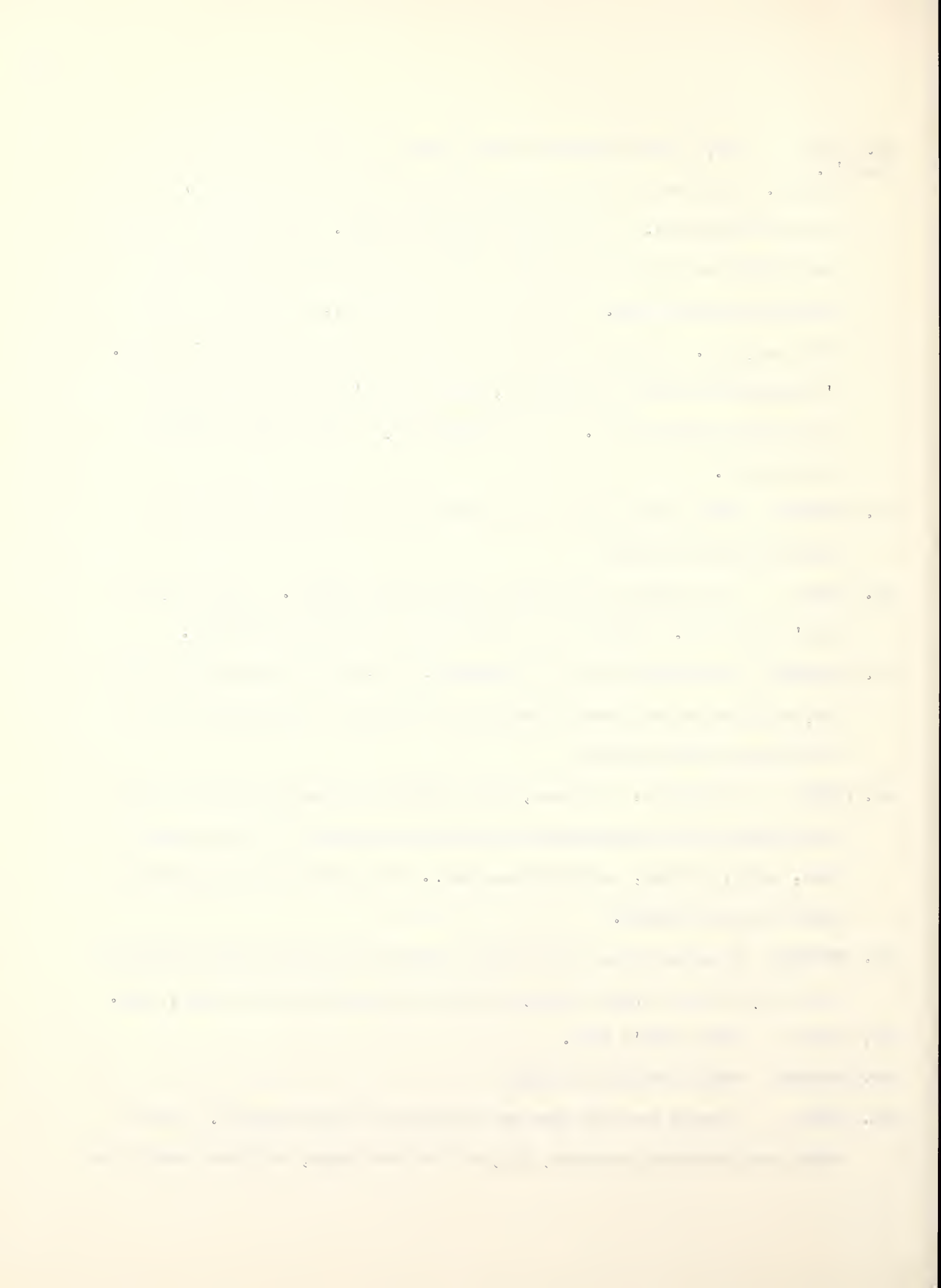
MR. FITTS: I think so. You know, what ultimately happened there was that they bought out the Commonwealth and Southern systems in a big purchase deal, which, I think, quieted things down. They bought the transmission lines that they needed.

DR. CRAWFORD: It seems to me that in this condemnation work you were concerned not merely with the legal cases, but with the goodwill of the area, also.

MR. FITTS: Well, that's true.

DR. CRAWFORD: Whose decision was that?

MR. FITTS: I would say that that was primarily a Board decision. When we first ran into these problems, Fly, in the early days, and later when I had



MR. FITTS: the same problems, we would go to the Board with them. We
(Cont'd.)
would go to the Board with them and say, "Now, here's a road situation,
or here's a school situation, or this is what it look to us is involved.
Now, how do you want to go from this?" So this was primarily a Board
decision.

DR. CRAWFORD: Was there generally agreement by the Board on how to handle these
situations?

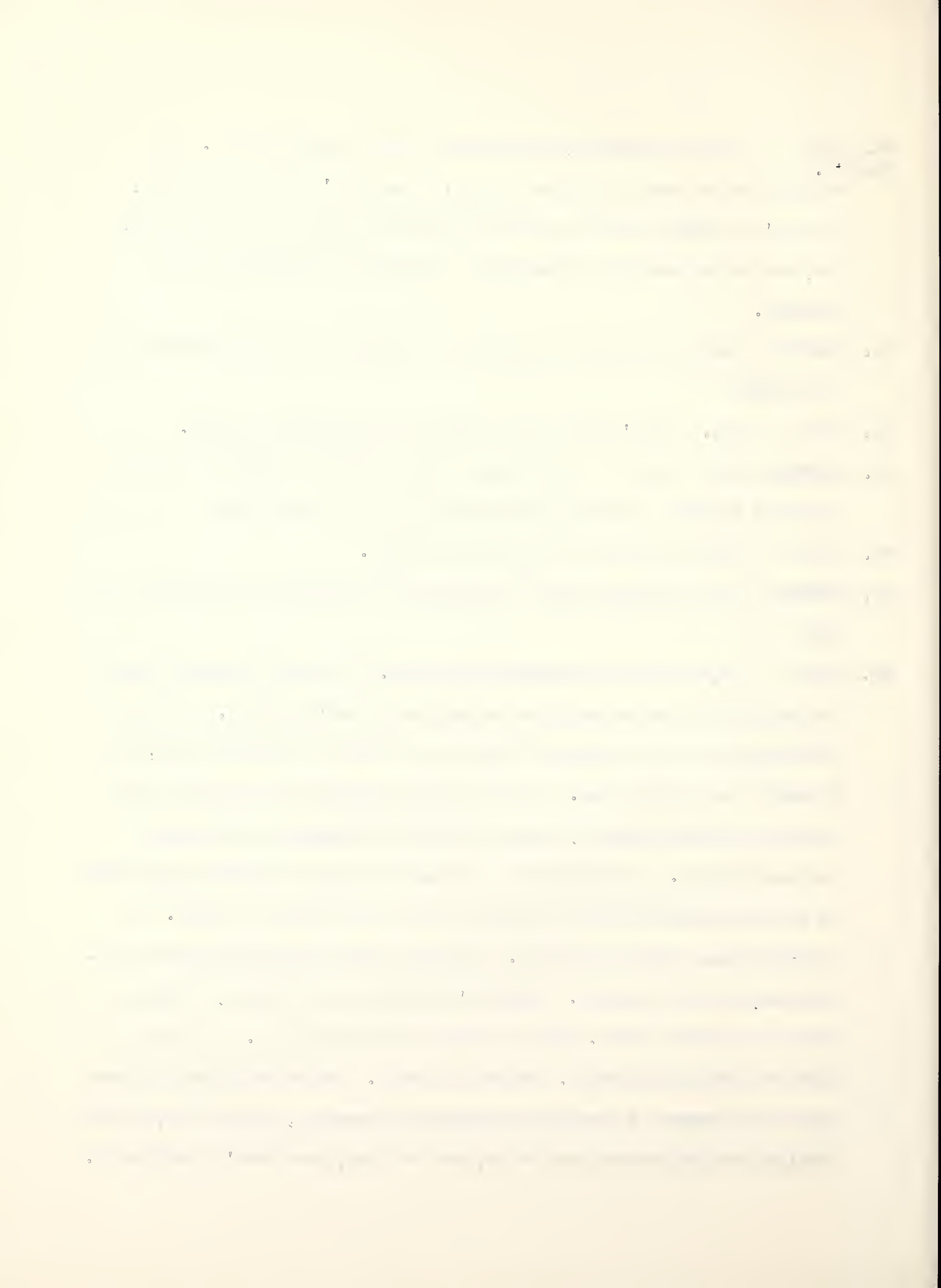
MR. FITTS: Yes. I don't think there was ever any division on this.

DR. CRAWFORD: What about the relationship of the President with TVA? Do you
feel that he kept up with it closely after it was established?

MR. FITTS: He did up until the time of the split.

DR. CRAWFORD: What about the matter of patronage and political interference in
TVA?

MR. FITTS: Oh, this is an interesting question. The Act has written into it
the proposition that no political appointments should be made. This was
followed, and it was followed religiously, at least as far as I know, and
I think I was fairly close. It was followed against great pressure. We
had one particular Senator, Senator McKellar of Tennessee, who never
believed in this. He thought that this was just like any other organization
in the government and that he should be able to put people in jobs. He
and Lilienthal fought this thing. Lilienthal bore the primary brunt of it.
They became bitter enemies. McKellar's attacks on Lilienthal, I think,
are on the public record. This was really the start of it. It started
with this patronage problem. He was the worse. We had occasional pressure
from other members of Congress and from other Senators, but not bad, really,
McKellar was the one who kept it up, but as I say, Dave didn't yield to it.



DR. CRAWFORD: Did you have any local pressure? That is the state government?

MR. FITTS: No, not that I know of. I'll tell you an area where you did get some pressure. This is natural. You got a great deal of pressure from local officials, from Congressmen, from state officials where you were going to build a dam or where you were going to build a transmission line.

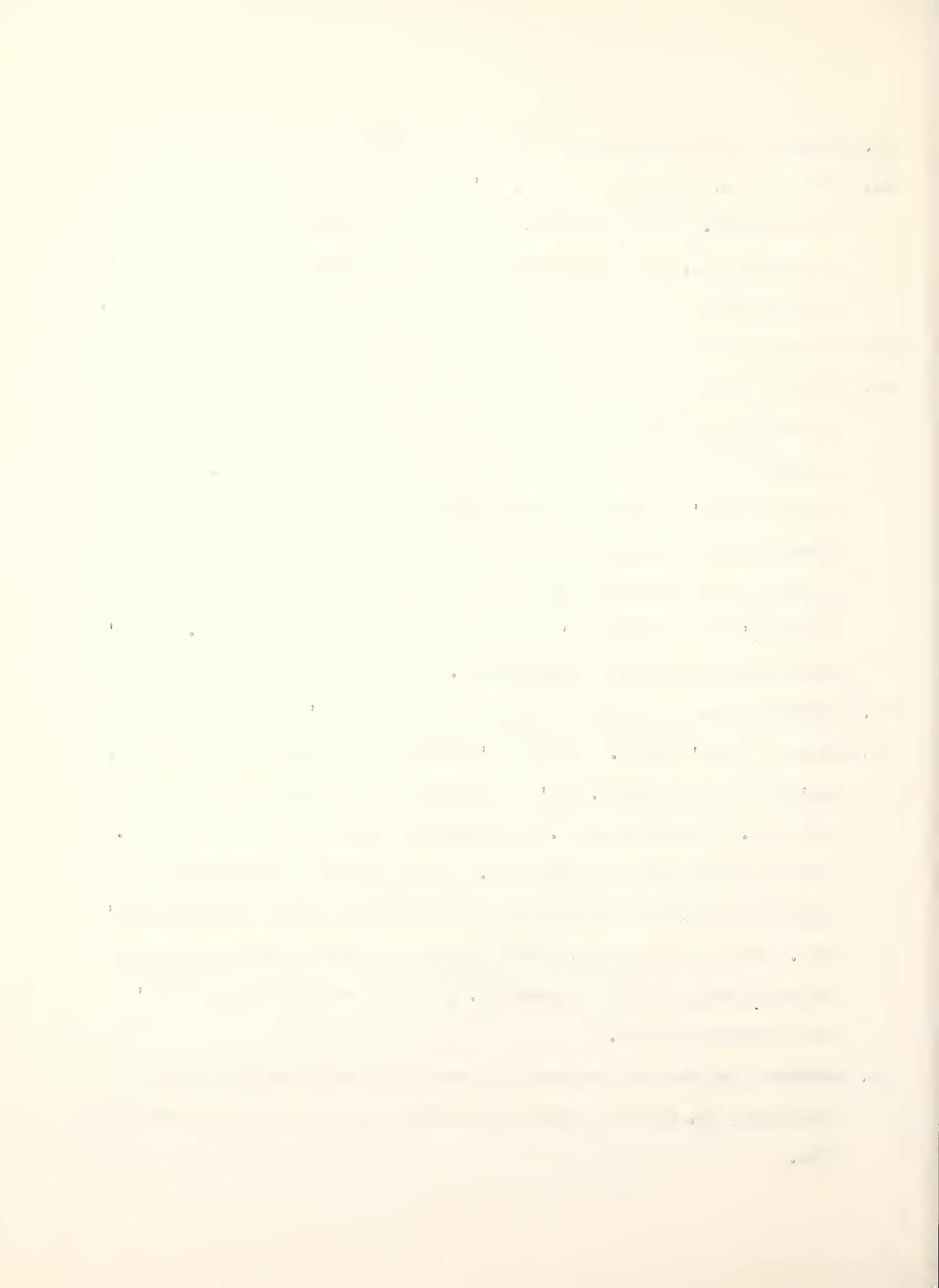
DR. CRAWFORD: How did you deal with those problems?

MR. FITTS: Those problems were dealt with in the only way that I think you can really deal with them, and that is the Board took the position, "We are going to do this where the engineers say it should be done. If the engineers say 'This rock is sound at this dam sight and that this is the place that will generate the most power and it is the place that will give the most flood control--if this is the place the engineers say it has to be built,' this is where it's going to be built." This they did. I don't think there is any other safe position.

DR. CRAWFORD: Then you make it a technical decision, don't you?

MR. FITTS: That's right. I think it's the only safe position. Otherwise, you're out in left field. It's just like we have here and you have in your area. Everybody has it. Nobody wants a road built by their place. The road ought to be someplace else. Nobody wanted a transmission line across his farm. The transmission line ought to be across somebody else's farm. But unless you said, "That transmission line is going to go where the engineers say is most economical.", unless you said that, you don't have anything to go by.

DR. CRAWFORD: Can you tell me something about your family participation in government, Mr. Fitts? I believe your father was in the Wilson administration.



MR. FITTS: My father was active politically all of his life. He was interested in it and politically active. He was Assistant Attorney General in Wilson's administration. In 1932, he organized the State of Alabama in the pre-Convention campaign for Roosevelt and took the delegation to the Chicago convention for Roosevelt. All of his life he was active in politics.

DR. CRAWFORD: What about your training and experience before you joined TVA? Did you feel that it had prepared you well for the work?

MR. FITTS: I thought so. I was very fortunate, by the way. This was a very young law department, and except for Larry Fly himself, there was no one else in that department who had ever been inside of a court room. I had been doing nothing but litigation for four or five years. I had been with my father, who was a very fine trial lawyer himself. This was very fortunate. I knew how to get into a court. I knew how to file a paper. I knew what the papers were, and nobody else did. This is why I got where I got. There is no doubt about that.

DR. CRAWFORD: Your experience with TVA seems very important to you, and I've noticed that many of the administrators in TVA have had their successful careers here in this work. What do you feel about the value of your experience with TVA?

MR. FITTS: Oh, I think it was of great value. I wouldn't underestimate it at all. I think it was a great experience and great preparation for anything that I have done.

DR. CRAWFORD: Could you outline your career to some degree, since you've left TVA?



MR. FITTS: Yes. When I left TVA I went with a Knoxville firm. It was Smith, Cates, and Long. It became Smith, Cates, Long, and Fitts for a little while. After I had been there a short while, Larry Fly, who had been Chairman of the Federal Communications Commission after he left TVA, opened up a New York law office. He called me on the telephone one day, and said, "Come up to New York and talk to me." I came up and talked to him. He said, "How about coming up here?" I said, "Well, I might as well try it." So I came up and formed a partnership with him. I practiced with him from 1945 to 1950.

DR. CRAWFORD: What sort of cases did you deal with mainly?

MR. FITTS: This was FCC work. This was primarily communications. About that time--1950--I had a growing family. I was facing the problem of how would I ever save anything. Everything that I made would be subject to income tax. I don't have any insurance plan except what I can buy myself. I don't have any pension. I have to worry about this family of mine. I got to thinking that maybe I should try a corporation and see what I can do about security, about benefits, about the future. I came over to CBS and talked to them. I said that I might consider a move. I found out what the benefit structure was here. It looked like a pretty good proposition. I decided to make a move. I came over here. I've been over here ever since.

DR. CRAWFORD: Do you generally feel that your decision to go into government work in TVA was a wise one?

MR. FITTS: Yes, I do.

DR. CRAWFORD: I know that you can answer this only as an observer, not as a participant, but what do you think about the course of development of TVA since your leaving?



MR. FITTS: I wish I were closer to it. I've had very little contact with it. My contacts have been limited to some of the former members of the law department. I think it's been satisfactory. I don't know of anything that I would criticize about it, but I'm not very close to it.

DR. CRAWFORD: What things, do you believe, have motivated you most in your own career, Mr. Fitts? Why did you make the decision that you did? Why have you done the things that you have?

MR. FITTS: I guess it's satisfaction with the job, with what I'm doing. I mean, that's more important to me than anything else--being satisfied that I'm accomplishing something and that I'm doing something worthwhile. I think that almost every move I have made has been based either on that basis or on an economic basis. Sometimes a combination.

DR. CRAWFORD: When you secured your education at Princeton and when you did your work in law school, did you anticipate any such sort of a career as you would have?

MR. FITTS: No. Here's what I really thought. I thought I would probably go back to Birmingham, practice law, and engage in politics. That's what I really thought was going to happen.

DR. CRAWFORD: Have you ever regretted not having done that?

MR. FITTS: Oh, in a way, but I have had my little fling at politics, too. I've run for local office. I've been on my school board, and I've been on my village board of trustees. So, I guess it's all right.

DR. CRAWFORD: Thank you, Mr. Fitts, for the interview. Thank you very much.

MR. FITTS: That's all right. Thank you.

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